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AHVAZI, BILAN				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/567,203

Applicant(s)

HOHENER, ALFRED

Examiner

BIJAN AHVAZI

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 6-16 is/are pending in the application.
- 4a) Of the above claim(s) 13-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 6-12 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is responsive to the amendment filed on April 08, 2011.
2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 08, 2011 has been entered.
3. Claims 1, 6-16 are pending. Claims 1, 6-12, 16 are under examination on the merits. Claim 1 is amended. Claims 2-5 are previously canceled. Claims 13-15 are withdrawn to a non-elected invention from further consideration.
4. The rejection of claims 1, 6-12, 16 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement is withdrawn in view of Applicants' amendment.
5. The rejection of claims 1, 6-12, 16 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 10-19, 21 and 22 of the copending Application No. (US 11/661,174) in view of Alan David Willey (Pat. No. US 5,916,481) is withdrawn in view of Applicants' amendment.
6. Applicant's arguments with respect to claims 1, 6-12, and 16 have been considered but are moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 6, 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonelli *et al.* (Pub. No. US 2003/0087791 A1, "Bonelli" hereinafter) in view of Adolf Kaser (Pat. No. US 5,211,719, "Kaser" hereinafter) and James Stanley Campbell (Pat. No. US 5,853,929, "Campbell" hereinafter).

Regarding claim 1, Bonelli teaches a colored granular composition for use as speckles in a particulate laundry detergent composition (Page 1, ¶0016) comprising photobleach (read on photocatalyst, Page 1, ¶0001) which is a water-soluble aluminium phthalocyanine sulphonate (Page 4, ¶0081, Page 5, ¶0090) as shown in Example 4 (Page 5, ¶0090, Page 5, ¶0096, Table 3). Other ingredients that is present include solvents, hydrotropes, fluorescers, dyes (read on dyestuff), foam boosters or foam controllers (antifoams) as appropriate, fabric conditioning compounds and perfumes (Page 4, ¶0074). Bonelli **does not** expressly teach the composition comprises (1) at least one azo dyestuff and/or at least one triphenylmethane dyestuff, which produce a relative hue angle of 220 - 320° and (2) wherein the dyestuff component is degraded when the composition is exposed to sunlight and further the dyestuff component is degraded at the rate of at least 1% per 2.

Referring to (1), however, Kaser teaches a liquid formulation of anionic disazo dyes that can be used for a continuous or batchwise dyeing process for textile materials, in particular

cellulose (Col. 3, lines 6-9) wherein concentrated aqueous solutions of anionic disazo dyes (read on azo dyestuff), comprising salts of anionic dyes of the formula as set forth (Col. 1, lines 10-15) with the benefit of exhibiting a wide gamut of shade in conjunction with other dyestuff and improved properties such as avoiding a coloration of the fabric (Col. 3, lines 6-9) [motivation].

Furthermore, Bonelli and Kaser are analogous art because they are from the same field of endeavor, namely that of the shading composition. In the light of such benefit at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the colored granular composition by Bonelli so as to include anionic disazo dyes as taught by Kaser, and would have been motivated to do so with reasonable expectation that this would result in a wide gamut of shade in conjunction with other dyestuff and improved properties such as avoiding a coloration of the fabric as taught by Kaser (Col. 3, lines 6-9). It is held that "Products of identical chemical composition can not have mutually exclusive properties." A chemical composition and its properties are inseparable. Therefore, if the prior art such as the combination of Bonelli and Kaser teach the identical chemical structure (i.e. a blend aluminium phthalocyanine sulphonate and azo dyestuff), the properties applicant (i.e. the dyestuff component is degraded at the rate of at least 1% per 2 hours when the composition is exposed to sunlight) discloses and/or claims are necessarily present. *In re Spada*, 911 F.2d 705, 709, 15 USPQ2d 1655, 1658 (Fed. Cir.1990), since the optimization and selection of such reaction parameters (i.e. degradation at the specific rate) would have been obvious to one of ordinary skill in the art at the time the invention was made because reaction parameters are recognized to have been result-effective variables.

Referring to (2), neither Bonelli nor Kaser teach a relative hue angle of 220 - 320°.

However, Campbell teaches a colored composition (Col. 1, lines 34-41) containing a solvent-soluble metal phthalocyanine blue dyestuff and a trichromatic set of toners (Col. 1, lines 11-13) with a relative hue angle of 220 - 320° (Col. 7, lines 1-9, Table 1), since these dyestuff provides a wide gamut of shade in conjunction with other dyestuff (Col. 5, lines 57-59) with the benefit of exhibiting a wide gamut shades with particularly useful properties (Col. 1, lines 40-41)

[motivation].

Furthermore, Bonelli and Campbell are analogous art because they are from the same field of endeavor, namely that of the shading composition. In the light of such benefit at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the colored granular composition by Bonelli with anionic disazo dyes as taught by Kaser having a relative hue angle as taught by Campbell, and would have been motivated to do so with reasonable expectation that this would result in providing a need for novel reactive dyestuffs which have improved properties, not only in respect of the light fastness stability, and in particular exhibit a high degree of fixing on the material to be dyed and yield strong dyeings as taught by Campbell (Col. 1, lines 29-34). Since Campbell teaches the identical or substantially identical dyestuff as the recited claimed, one skilled in the art would have expected, the dyestuff hue angle would be the same as claimed. Note that structurally similar compounds are generally expected to have similar properties. *In re Gvurik*, 596 F. 2d 1012, 201 USPQ 552.

Regarding claim 6, Bonelli teaches the features as discussed above. However, Bonelli **does not** expressly teach the azo dyestuff is a compound of formula as set forth.

However, Kaser teaches a liquid formulation of anionic disazo dyes can likewise be used for a continuous or batchwise dyeing process for textile materials, in particular cellulose (Col. 3, lines 6-9) wherein concentrated aqueous solutions of anionic disazo dyes (read on azo dyestuff), comprising salts of anionic dyes of the formula as set forth (Col. 1, lines 10-15) with the benefit of exhibiting a wide gamut of shade in conjunction with other dyestuff and improved properties such as avoiding a coloration of the fabric (Col. 3, lines 6-9) **[motivation]**.

Furthermore, Bonelli and Kaser are analogous art because they are from the same field of endeavor, namely that of the shading composition. In the light of such benefit at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the colored granular composition by Bonelli so as to include anionic disazo dyes as taught by Kaser, and would have been motivated to do so with reasonable expectation that this would result in a wide gamut of shade in conjunction with other dyestuff and improved properties such as avoiding a coloration of the fabric as taught by Kaser (Col. 3, lines 6-9). It is held that "Products of identical chemical composition can not have mutually exclusive properties." A chemical composition and its properties are inseparable. Therefore, if the prior art such as the combination of Bonelli and Kaser teach the identical chemical structure (i.e. a blend aluminium phthalocyanine sulphonate and azo dyestuff), the properties applicant (i.e. the dyestuff component is degraded at the rate of at least 1% per 2 hours when the composition is exposed to sunlight) discloses and/or claims are necessarily present. *In re Spada*, 911 F.2d 705, 709, 15 USPQ2d 1655, 1658 (Fed. Cir.1990).

Regarding claim 10, Bonelli teaches a colored granular composition for use as speckles in a particulate laundry detergent composition (Page 1, ¶0016) comprising photobleach (read on photocatalyst, Page 1, ¶0001) which is a water-soluble aluminium phthalocyanine sulphonate

(Page 4, ¶0081, Page 5, ¶0090) as shown in Example 4 (Page 5, ¶0090, Page 5, ¶0096, Table 3). Other ingredients that is present include solvents, hydrotropes, fluorescers, dyes (read on dyestuff), foam boosters or foam controllers (antifoams) as appropriate, fabric conditioning compounds and perfumes (Page 4, ¶0074).

Regarding claim 11, Bonelli teaches a colored granular composition for use as speckles in a particulate laundry detergent composition (Page 5, ¶0097), wherein the formulations shown in Table 4 represent detergent compositions comprising 2.00 wt % of photobleach speckles of Example 1 (Page 5, ¶0098) including a blend of Zn and Al sulphonated phthalocyanine and blue colorant (Col. 4, ¶0079, Table 1) and alt least one further additive from 10 to 95 wt % and 9.8 to 16 wt% water (Page 5, ¶0098).

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over over Bonelli *et al.* (Pub. No. US 2003/0087791 A1) in view of Adolf Kaser (Pat. No. US 5,211,719) and James Stanley Campbell (Pat. No. US 5,853,929) as applied to claim 1 above, and further in view of Abel *et al.* (Pat. No. US 4,405,329, "Abell" hereinafter).

Regarding claim 7, The disclosure of Bonelli, Kaser and Campbell are adequately set forth in paragraph 8 above and is incorporated herein by reference. Bonelli, Kaser and Campbell **do not** expressly teach the composition comprises the azo dyestuff is a compound of formula as set forth.

However, Abel teaches a concentrated fluid formulations of textile dyes, leather dyes or paper dyes comprising metal-free dyes of the formula (103) as shown in Example 4 (Col. 13,

lines 17-33) as the recited claimed with the benefit of exhibiting a mobile clear dye solution having an excellent storage stability (Col. 13, lines 3-4) **[motivation]**.

Furthermore, Bonelli and Abel are analogous art because they are from the same field of endeavor, namely that of the shading composition. In the light of such benefit at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the colored granular composition by Bonelli in view of anionic disazo dyes by Kaser so as to include specific azo dyestuff (i.e interchangeable dyestuff) as taught by Abel, and would have been motivated to do so with reasonable expectation that this would result in a wide gamut of shade in conjunction with other dyestuff and improved properties such as avoiding a coloration of the fabric as taught by Kaser (Col. 3, lines 6-9) and a mobile clear dye solution having an excellent storage stability as taught by Abel (Col. 13, lines 3-4). It is noted that the substitution of equivalents such the azo dyestuff requires no express motivation as long as the prior art such as Abel (Col. 13, lines 17-33) recognizes the equivalency.

10. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over over Bonelli *et al.* (Pub. No. US 2003/0087791 A1) in view of Adolf Kaser (Pat. No. US 5,211,719) and James Stanley Campbell (Pat. No. US 5,853,929) as applied to claim 1 above, and further in view of Kenji Matsumoto (JP 62025171, abstract STN translation, Page 50, "Matsumoto" hereinafter).

Regarding claim 8. The disclosure of Bonelli, Kaser and Campbell are adequately set forth in paragraph 8 above and is incorporated herein by reference. Bonelli, Kaser and Campbell **do not** expressly teach the triphenylmethane dyestuff is a compound of formula as set forth.

However, Matsumoto teaches dye compounds for relief patterns for microcolor filters contain triphenylmethane blue dyes and phthalocyanine blue dyes (Page 50, lines 1-2), since such dyes are used to overcome the undesirable yellowing of white fabrics or white filters (Page 50, lines 1-2) [motivation].

Furthermore, Bonelli and Matsumoto are analogous art because they are from the same field of endeavor, namely that of the shading composition. In the light of such benefit at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the colored granular composition by Bonelli in view of anionic disazo dyes by Kaser so as to include specific azo dyestuff (i.e interchangeable dyestuff) as taught by Matsumoto, and would have been motivated to do so with reasonable expectation that this would result in a wide gamut of shade in conjunction with other dyestuff and improved properties such as avoiding a coloration of the fabric as taught by Kaser (Col. 3, lines 6-9) and overcome the undesirable yellowing of white fabrics or white filters as taught by Matsumoto (Page 50, lines 1-2). It is noted that the substitution of equivalents such the triphenylmethane dyestuff for azo dyestuff requires no express motivation as long as the prior art such as Matsumoto recognizes the equivalency.

11. Claims 9, 12 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonelli *et al.* (Pub. No. US 2003/0087791 A1) in view of Adolf Kaser (Pat. No. US 5,211,719) and James Stanley Campbell (Pat. No. US 5,853,929) as applied to claim 1 above, and further in view of Alan David Willey (Pat. No. US 5,916,481, "Willey" hereinafter).

Regarding claim 9, The disclosure of Bonelli, Kaser and Campbell are adequately set forth in paragraph 8 above and is incorporated herein by reference. Bonelli, Kaser and

Campbell **do not** expressly teach the composition comprises at least one fluorescent whitening agent.

However, Willey teaches a laundry or cleaning composition comprising Tinopal CBS-X, fluorescent whitening agent (FWA) (Ciba Company) as shown in Example 39 (Col. 45, line 12) with the benefit of exhibiting significant improvement of the visual appearance (Col. 1, lines 30-35) [motivation].

Furthermore, Bonelli and Willey are analogous art because they are from the same field of endeavor, namely that of the shading composition. In the light of such benefit at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the colored granular composition by Bonelli in view of anionic disazo dyes as by Kaser so as to include fluorescent whitening agent (FWA) as taught by Willey, and would have been motivated to do so with reasonable expectation that this would result in significant improvement of the visual appearance of white washing powders as taught by Alan David Willey (Col. 1, lines , lines 30-35).

Regarding claims 12, 16. The disclosure of Bonelli, Kaser and Campbell are adequately set forth in paragraph 8 above and is incorporated herein by reference. Bonelli, Kaser and Campbell **do not** expressly teach a liquid formulation comprising the composition and the textile material treated with the composition.

However, Willey teaches a laundry or cleaning composition wherein the cleaning compositions provided may be in the form of granules, liquids, bars, and the like, and typically are formulated to provide an in-use pH in the range of 9 to 11 (Col. 44, lines 48-51), however in the case of non-aqueous or low aqueous compositions the pH ranges may vary outside this range as shown in Example 39 (Col. 44, lines 51-53). Willey teaches an organosilicon

photosensitizing compounds having a Q-band maximum absorption wavelength of 660 nm or greater and their use as photoactivators (photosensitizer) or singlet oxygen producers, in particular for low hue photobleaching for removing stains from textiles and hard surfaces (Col. 1, lines 8-13) with the benefit of exhibiting significant improvement of the visual appearance (Col. 1, lines 30-35) **[motivation]**.

Furthermore, Bonelli and Willey are analogous art because they are from the same field of endeavor, namely that of the shading composition. In the light of such benefit at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the colored granular composition by Bonelli in view of anionic disazo dyes as by Kaser so as to include fluorescent whitening agent (FWA) as a liquid formulation to treat textile material as taught by Willey, and would have been motivated to do so with reasonable expectation that this would result in significant improvement of the visual appearance of white washing powders as taught by Alan David Willey (Col. 1, lines , lines 30-35).

Response to Arguments

12. Applicant's arguments with respect to claims 1, 6-12, and 16 have been considered but are moot in view of the new grounds of rejection.

In response to applicant's argument that the formula (1b) has been amended to eliminate the presence of sulfo groups and their sulphonate groups, thus Bonelli does not disclose, teach or even suggest the presently claimed photocatalyst having formula (1b).

The examiner respectfully disagrees. The current amended claim 1 recites Q_2 moiety in formula 1(b) having a radical of the formula containing sulfonyl group, and Me is selected from Al-Z₁, wherein Z₁ is sulfate group and further azo dyestuff comprising sulfonate salts. Bonelli

teaches a colored granular composition for use as speckles in a particulate laundry detergent composition (Page 1, ¶0016) comprising photobleach (read on photocatalyst, Page 1, ¶0001) which is a water-soluble aluminium phthalocyanine sulphonate (Page 4, ¶0081, Page 5, ¶0090) as shown in Example 4 (Page 5, ¶0090, Page 5, ¶0096, Table 3) which encompasses formula 1(b) as contemplated by applicant.

In response to applicant's argument that the recited formula (1b) is not obvious over Bonelli, thus one of ordinary skill in the art would not change the phthalocyanine sulphonate of Bonelli to be a photocatalyst.

The examiner respectfully disagrees. It is known that various water-soluble phthalocyanine and naphthalocyanine compounds, in particular those having certain metals as the central atom, have a photosensitizing action (see Alan David Willey, Pat. No. US 5,916,481). Phthalocyanines and naphthalocyanines especially when combined with a suitable metal can undergo a series of photochemical reactions in conjunction with molecular oxygen to produce molecules of "singlet oxygen". The excited "singlet oxygen", formed in these photosensitizing reactions, is an oxidative species capable of reacting with stains to chemically bleach them to a colorless and usually water-soluble state, thereby resulting in what is called photochemical bleaching. Bonelli teaches a colored granular composition for use as speckles in a particulate laundry detergent composition (Page 1, ¶0016) comprising photobleach (read on photocatalyst, Page 1, ¶0001) which is a water-soluble aluminium phthalocyanine sulphonate (Page 4, ¶0081, Page 5, ¶0090) as shown in Example 4 (Page 5, ¶0090, Page 5, ¶0096, Table 3) which encompasses formula 1(b) as contemplated by applicant, thus one of ordinary skill in the art would utilize the phthalocyanine sulphonate of Bonelli to be a photocatalyst.

In response to applicant's argument that neither Kaser nor Campbell disclose, teach or suggest the photocatalyst having formula (1b).

The examiner respectfully disagrees. Bonelli teaches a colored granular composition for use as speckles in a particulate laundry detergent composition (Page 1, ¶0016) comprising photobleach (read on photocatalyst, Page 1, ¶0001) which is a water-soluble aluminium phthalocyanine sulphonate (Page 4, ¶0081, Page 5, ¶0090) as shown in Example 4 (Page 5, ¶0090, Page 5, ¶0096, Table 3). Other ingredients that is present include solvents, hydrotropes, fluorescers, dyes (read on dyestuff), foam boosters or foam controllers (antifoams) as appropriate, fabric conditioning compounds and perfumes (Page 4, ¶0074). Bonelli **does not** expressly teach the composition comprises (1) at least one azo dyestuff and/or at least one triphenylmethane dyestuff, which produce a relative hue angle of 220 - 320° and (2) wherein the dyestuff component is degraded when the composition is exposed to sunlight and further the dyestuff component is degraded at the rate of at least 1% per 2.

However, Kaser and Campbell cure these deficiencies of Bonelli as adequately set forth in paragraph 8 above and are incorporated herein by reference.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir.1986). The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In*

re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Bonelli teaches a colored granular composition for use as speckles in a particulate laundry detergent composition (Page 1, ¶0016) comprising photobleach (read on photocatalyst, Page 1, ¶0001) which is a water-soluble aluminium phthalocyanine sulphonate (Page 4, ¶0081, Page 5, ¶0090) as shown in Example 4 (Page 5, ¶0090, Page 5, ¶0096, Table 3). Other ingredients that is present include solvents, hydrotropes, fluorescers, dyes (read on dyestuff), foam boosters or foam controllers (antifoams) as appropriate, fabric conditioning compounds and perfumes (Page 4, ¶0074). Bonelli **does not** expressly teach the composition comprises (1) at least one azo dyestuff and/or at least one triphenylmethane dyestuff, which produce a relative hue angle of 220 - 320° and (2) wherein the dyestuff component is degraded when the composition is exposed to sunlight and further the dyestuff component is degraded at the rate of at least 1% per 2.

However, Kaser and Campbell cure these deficiencies of Bonelli as adequately set forth in paragraph 8 above and are incorporated herein by reference, thus the combined references such as Bonelli in view of Kaser and Campbell are deemed to teach the claimed composition; the applicant or applicants need to show that his, her, or their invention is actually different from and unexpectedly better than the prior art, see *In re Best*, 195 USPQ 430, 433,434 (CCPA 1977).

With regard to degradation rate, it is held that "Products of identical chemical composition can not have mutually exclusive properties." A chemical composition and its properties are inseparable. Therefore, if the prior art such as the combination of Bonelli and Kaser teach the identical chemical structure (i.e. a blend aluminium phthalocyanine sulphonate and azo dyestuff), the properties applicant (i.e. the dyestuff component is degraded at the rate of at least 1% per 2 hours when the composition is exposed to sunlight) discloses and/or claims are necessarily present. *In re Spada*, 911 F.2d 705, 709, 15 USPQ2d 1655, 1658 (Fed.

Cir.1990), since the optimization and selection of such reaction parameters (i.e. degradation at the specific rate) would have been obvious to one of ordinary skill in the art at the time the invention was made because reaction parameters are recognized to have been result-effective variables. As to optimization results, a patent will not be granted based upon the optimization of result effective variables when the optimization is obtained through routine experimentation unless there is a showing of unexpected results which properly rebuts the *prima facie* case of obviousness. See *In re Boesch*, 61 7 F.2d 272, 276,205 USPQ 215,219 (CCPA 1980). See also *In re Woodruff* 919 F.2d 1575,1578, 16 USPQ2d 1934, 1936-37 Fed. Cir. 1990), and *in re Aller*, 220 F.2d 454,456, 105 USPQ 233,235 (CCPA 1955).

Regarding claim 7, The disclosure of Bonelli, Kaser and Campbell are adequately set forth in paragraph 8 above and is incorporated herein by reference. Bonelli, Kaser and Campbell **do not** expressly teach the composition comprises the azo dyestuff is a compound of formula as set forth.

However, Abel teaches a concentrated fluid formulations of textile dyes, leather dyes or paper dyes comprising metal-free dyes of the formula (103) as shown in Example 4 (Col. 13, lines 17-33) as the recited claimed with the benefit of exhibiting a mobile clear dye solution having an excellent storage stability (Col. 13, lines 3-4) **[motivation]**. Furthermore, Bonelli and Abel are analogous art because they are from the same field of endeavor, namely that of the shading composition. In the light of such benefit at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the colored granular composition by Bonelli in view of anionic disazo dyes by Kaser so as to include specific azo dyestuff (i.e interchangeable dyestuff) as taught by Abel, and would have been motivated to do so with reasonable expectation that this would result in a wide gamut of shade in conjunction with other

dyestuff and improved properties such as avoiding a coloration of the fabric as taught by Kaser (Col. 3, lines 6-9) and a mobile clear dye solution having an excellent storage stability as taught by Abel (Col. 13, lines 3-4). It is noted that the substitution of equivalents such the azo dyestuff requires no express motivation as long as the prior art such as Abel (Col. 13, lines 17-33) recognizes the equivalency, thus Abel cure this deficiency of Bonelli in view of Kaser and Campbell.

Regarding claim 8, The disclosure of Bonelli, Kaser and Campbell are adequately set forth in paragraph 8 above and is incorporated herein by reference. Bonelli, Kaser and Campbell **do not** expressly teach the triphenylmethane dyestuff is a compound of formula as set forth.

However, Matsumoto teaches dye compounds for relief patterns for microcolor filters contain triphenylmethane blue dyes and phthalocyanine blue dyes (Page 50, lines 1-2), since such dyes are used to overcome the undesirable yellowing of white fabrics or white filters (Page 50, lines 1-2) [motivation]. Furthermore, Bonelli and Matsumoto are analogous art because they are from the same field of endeavor, namely that of the shading composition. In the light of such benefit at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the colored granular composition by Bonelli in view of anionic disazo dyes by Kaser so as to include specific azo dyestuff (i.e interchangeable dyestuff) as taught by Matsumoto, and would have been motivated to do so with reasonable expectation that this would result in a wide gamut of shade in conjunction with other dyestuff and improved properties such as avoiding a coloration of the fabric as taught by Kaser (Col. 3, lines 6-9) and overcome the undesirable yellowing of white fabrics or white filters as taught by Matsumoto (Page 50, lines 1-2). It is noted that the substitution of equivalents such the triphenylmethane

dyestuff for azo dyestuff requires no express motivation as long as the prior art such as Matsumoto recognizes the equivalency, thus Matsumoto cure this deficiency of Bonelli in view of Kaser and Campbell.

Regarding claims 9, 12 and 16, The disclosure of Bonelli, Kaser and Campbell are adequately set forth in paragraph 8 above and is incorporated herein by reference. Bonelli, Kaser and Campbell **do not** expressly teach the composition comprises at least one fluorescent whitening agent, a liquid formulation comprising the composition and the textile material treated with the composition.

However, Willey teaches a laundry or cleaning composition comprising Tinopal CBS-X, fluorescent whitening agent (FWA) (Ciba Company) as shown in Example 39 (Col. 45, line 12), wherein the cleaning compositions provided may be in the form of granules, liquids, bars, and the like, and typically are formulated to provide an in-use pH in the range of 9 to 11 (Col. 44, lines 48-51), however in the case of non-aqueous or low aqueous compositions the pH ranges may vary outside this range as shown in Example 39 (Col. 44, lines 51-53). Willey teaches an organosilicon photosensitizing compounds having a Q-band maximum absorption wavelength of 660 nm or greater and their use as photoactivators (photosensitizer) or singlet oxygen producers, in particular for low hue photobleaching for removing stains from textiles and hard surfaces (Col. 1, lines 8-13) with the benefit of exhibiting significant improvement of the visual appearance (Col. 1, lines 30-35) **[motivation]**. Furthermore, Bonelli and Willey are analogous art because they are from the same field of endeavor, namely that of the shading composition. In the light of such benefit at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the colored granular composition by Bonelli in view of anionic disazo dyes as by Kaser so as to include fluorescent whitening agent (FWA) as taught by

Willey, and would have been motivated to do so with reasonable expectation that this would result in significant improvement of the visual appearance of white washing powders as taught by Alan David Willey (Col. 1, lines , lines 30-35), thus ,Willey cure these deficiencies of Bonelli in view of Kaser and Campbell.

Examiner Information

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bijan Ahvazi, Ph.D. whose telephone number is (571)270-3449. The examiner can normally be reached on M-F 8:0-5:0. (Off every other Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Y. Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/BA/
Examiner Art Unit 1761

/Bijan Ahvazi/
Examiner, Art Unit 1761

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